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September 29, 2023

Hon. Victoria Reznik
United States Magistrate Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601-4150

Re: File: 00194-Fishman
Marc Fishman v City of New Rochelle, et al
Date of Loss: 12/15/18
Case Number: 19-cv-00265-NSR

Dear Magistrate Judge Reznik:

I represent plaintiff, Marc Fishman. I write to you, with the consent of the defendants for an extension of time to complete non-expert depositions. Currently, fact depositions are due by September 29, 2023. This is the first request for an extension of the deadline to complete fact depositions. This request is made today and not sooner as the parties were working to come to an agreement upon the time place and manner of plaintiff's deposition.

The parties have now agreed to proceed with the plaintiff's deposition remotely on October 17, 2023 with the provision of closed captioning on the virtual link. The parties have also agreed to continue the City's Rule 30b(6) deposition via PO Lane Schlesinger on November 3, 2023.

Based upon Lt. Robert Wenzler's initial Rule 30(b)(6) testimony and expected post deposition disclosures, the parties may need to conduct the depositions of 2 or 3 more nonparty witnesses. Of particular note is the defendants' about face on the existence of audio and video recordings relating to the subject incident. Lt. Wenzler testified the police department sent a disc of booking video and audio and the radio run/police precinct call to the prosecutor but no longer has a copy. The prosecutor never exchanged the disc on the plaintiff in the underlying criminal proceeding. We are now investigating these discrepancies as the audio and video will likely shed significant light on the failure to accommodate claims and could result in the revival of the section 1983 claims which were dismissed without prejudice.



All discovery is currently due to be completed by March 29, 2024. As such the parties request that the deadline to complete non-expert depositions be extended by sixty (60) days from September 29, 2023 to November 28, 2023. This would allow the parties to engage in any post deposition discovery and be able to complete same before the current deadline. Since Lt. Wenzler essentially conceded plaintiff's disabilities plaintiff does not expect to need expert discovery.

Very truly yours,



Caner Demirayak, Esq.

CC: Defense counsel via ECF